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6 Attorney for Plaintiff

7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA

9 \* \* \*

10 WILLIAM HERRON, an individual,

11 Plaintiff,

CASE NO. 3:13-cv-00075-HDM-VPC

12 vs.

AMENDED  
COMPLAINT AND JURY DEMAND

13 PERI & SON'S FARMS, INC.,  
14 a domestic corporation,

15 Defendant.  
16 \_\_\_\_\_/

17 Plaintiff, for his complaint against Defendants, complains and avers as follows:

18 1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 and §1367.

19 2. Plaintiff resides in Lyon County, Nevada. He exhausted his administrative  
20 remedies timely and timely sues within 90 days after receipt of his right to sue from the EEOC.

21 3. Defendant does business in Yerington, Lyon County, Nevada.

22 4. Plaintiff was employed by Defendant from December 8, 2011, until he was "laid-  
23 off" effective January 17, 2012, from his position as a mechanic. Plaintiff was a mechanic who  
24 worked on Defendant's farm machinery. Defendant hired Plaintiff and thus believed Plaintiff  
25 was qualified to do this job. Plaintiff worked on all vehicles' mechanical issues. Plaintiff has  
26 a back condition with nerve impairment that substantially limits daily life activities of walking,  
27 bending, lifting and being pain free.

28 5. A few days prior to Plaintiff's termination, Plaintiff was requested to perform  
dashboard work. Plaintiff advised his supervisor he was unable to complete the task due to  
his disability. The work required Plaintiff to get into positions that would compromise his back

1 condition. This was not an essential task and others were available and qualified to do it, as  
2 Plaintiff requested, but Defendant refused.

3 6. On January 17, 2012, the shop supervisor advised Plaintiff he was being laid off  
4 due to budget cuts. This was a pretext for disability discrimination. Shortly after his "lay-off",  
5 Defendant placed an advertisement for the same position on the internet.

6 7. Plaintiff could perform the essential functions of his position with or without  
7 reasonable accommodation.

8 8. Plaintiff was satisfactorily performing his job consistent with the legitimate  
9 expectations of the employer.

10 9. Plaintiff was asked to work on the dashboard and requested a reasonable  
11 accommodation as noted above. Defendant failed to interact with Plaintiff as required under  
12 the law, and terminated him because of his disability and request for accommodation.

13 10. As a result of the termination of Plaintiff's employment, Plaintiff has suffered and  
14 will continue to suffer emotional distress, mental anguish, humiliation, embarrassment, harm  
15 to reputation, loss of enjoyment of life and career, as well as past and future special damages,  
16 including wage loss, benefit loss and seniority loss, as well as lost retirement benefits, all in  
17 sums exceeding \$10,000 in amount.

18 11. The conduct of the Defendant was willful, deliberately indifferent to Plaintiff's  
19 rights, oppressive, and malicious, entitling Plaintiff to an award of punitive damages in a sum  
20 exceeding \$10,000 in amount.

21 12. Plaintiff is entitled to reasonable attorney's fees and costs of suit.

22 FIRST CLAIM FOR RELIEF

23 13. Plaintiff refers to and by such reference incorporates herein each, every and all

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1 averments contained in paragraphs 1-12 hereinabove as though fully set forth at this point.

2 14. The aforementioned conduct subjects the Defendant to liability under the  
3 Americans With Disabilities Act, 42 U.S.C. §12112 and 12203, entitling Plaintiff to all of the  
4 aforementioned damages.

5 WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant for all of  
6 the aforementioned relief, reasonable attorney's fees and costs of suit, and such other and  
7 further relief as the Court deems just and proper.

8 The undersigned does hereby affirm that the preceding document **DOES NOT** contain  
9 the Social Security Number of any person.

10 DATED this 5<sup>th</sup> day of September, 2013.

11  
12 LAW OFFICE OF  
JEFFREY A. DICKERSON

13  
14 /S/ Jeffrey A. Dickerson  
JEFFREY A. DICKERSON

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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I, Jeffrey A. Dickerson, certify that on this 5<sup>th</sup> day of September, 2013, I electronically filed the preceding document, pursuant to FRCP 12(b)(6) to be served on all parties to this action via the U.S. District Court's CM/ECF electronic filing system, as follows:

Dora V. Lane  
HOLLAND & HART

/S/ Jeffrey A. Dickerson  
JEFFREY A. DICKERSON

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